

- (5) It shall be unlawful for any person to construct a water well within 150 feet of a city water well unless the well complies with all applicable state regulations.
- (6) It shall be unlawful for any person to construct a sewage wet well or sewage pumping station within 300 feet of a city water well.
- (7) It shall be unlawful for any person to construct a drainage ditch for industrial waste or sewage treatment waste within 300 feet of a city water well.
- (8) It shall be unlawful for any person to construct a sewage treatment plant, animal feed lot, or solid waste disposal site within 500 feet of a city water well.
- (9) It shall be unlawful for any person to apply sludge or effluent from a septic tank or sewage treatment plant on land within 500 feet of a city water well.
- (10) It shall be unlawful for any person to drill an oil or gas well, including an injection well for recovery of oil or gas, within 500 feet of a city water well.

(b) It is a defense to prosecution under subsection (a) of this section that the actor has obtained a variance in writing from the utility official. The utility official shall grant a variance upon a showing by the applicant that: (1) the facility or activity will not contaminate the groundwater, and (2) the facility or activity is not prohibited under any other provision of this Code.

(c) The department shall investigate existing facilities whether located within or without the distance requirements of subsection (a) and determine if those facilities are a pollution hazard to city well water. The department shall recommend acquisition of such facilities in the event the department determines that the facilities are a pollution hazard to city well water and the owner refuses to take action necessary to abate the pollution hazard.

(d) Any person who violates any provision of this section shall be guilty of an offense and upon conviction thereof shall be subject to a fine of not less than \$500.00 nor more than \$2,000.00 for

each violation. Each day in which a violation occurs shall constitute a separate offense. In addition to criminal prosecution, the legal department may seek appropriate judicial remedies to protect city ground water from contamination. (Ord. No. 04-844, § 1, 8-11-04)

Secs. 47-51—47-60. Reserved.

ARTICLE II. CITY WATER SERVICE CHARGES

DIVISION 1. GENERALLY

Sec. 47-61. Charges for treated water service generally.

(a) *Generally.* Except as otherwise specifically provided for in this chapter, the charge for treated water service furnished by the city in any given month to any given customer (as defined below) shall be the minimum monthly charge applicable to such customer, plus the charge applicable to such customer for any additional quantity (as defined below), plus any applicable miscellaneous charges accruing in accordance with this chapter or the appendices of this Code.

(b) *Definitions.* As used in articles I and II of this chapter, the following terms shall have the meanings set out below, unless the context clearly indicates that another meaning is intended:

Additional quantity means the gross quantity less the minimum quantity. The additional quantity shall be computed for each month based upon the then-current minimum quantity and the gross quantity for that month.

Commercial customer means any customer that is not a single-family residential customer, a multifamily residential customer, a light commercial customer, a contract treated water customer, an emergency backup service customer, a resale customer, a transient meter customer or an outdoor customer.

Commercial fire line service means service to a water supply system that has been installed for the sole purpose of fire protection and does not

register any usage except as needed for fire protection or standard maintenance and testing as required by NFPA 25 Standards.

Contract treated water customer means a customer who has contracted with the city to receive treated water under subsection 47-61(f) below.

Customer means any person who (or which) has applied or contracted for treated water service from the city's waterworks systems and for whom (or for which) a meter has been installed. Except as otherwise provided by this chapter, a person served by more than one meter is considered a separate customer for each separate meter. The city shall be deemed a customer only in those circumstances set forth in section 47-101.

Emergency backup service customer or *EBS customer* means any customer who would otherwise be a resale customer, whose application for emergency backup service has been approved by the utility official, for whom an EBS installation has been installed and conveyed to the city in accordance with this Code and whose EBS service has not been terminated.

Emergency means a sudden and unforeseen mechanical or electrical failure of the waterworks system of an EBS customer, such that the failure significantly effects the EBS customer's ability to supply water to its own water customers. An emergency shall not mean a water shortage or a greater than expected water use by the EBS customer's own water customers, nor shall it mean a circumstance or condition caused by ordinary wear and tear of the EBS customer's facilities.

Gross quantity means the total quantity of water actually delivered to a customer during a month.

Light commercial customer means any customer with an intake meter of three-quarter inches or less, that is not a single-family residential customer, a multifamily residential customer, a contract treated water customer, an emergency backup service customer, a resale customer, a transient meter customer or an outdoor customer.

Minimum quantity means the quantity of water which is included as part of the minimum

monthly charge, as shown by subsection (c) of this section and the table adopted therein at section 47-1001.

Month means the billing period for each customer and consists of approximately 30 days. A billing period begins on the date that a customer's measuring equipment is read (or the date as of which the customer's gross quantity is estimated) and ends when the next such reading (or estimation) occurs. There shall be 12 such readings (or estimations) per customer pre calendar year, and the date of the most recent reading (or estimation) is usually shown on each water bill.

Multifamily residential customer means a customer (other than a resale customer, a transient meter customer, a contract treated water customer or an EBS customer) whose meter is connected to, or serves exclusively, a residential establishment with more than one unit.

Outdoor customer means a customer (other than a resale customer, a transient meter customer, a contract treated water customer or an EBS customer) whose meter is connected to, and serves primarily, one of the following:

- a. A device or system for irrigation or distributing water to any area not enclosed within a permanent roofed structure; or
- b. One or more spigots, hydrants or outlets for water wholly located outside of a permanent, roofed structure.

Per-unit gross quantity means the gross quantity for a multifamily residential customer divided by the number of units in the residential establishment of that customer. In the event a person owning a multifamily residential establishment served by more than one meter has established an umbrella account, the gross quantity shall be the total amount of water as measured by all meters serving the establishment during the billing period. Otherwise, a person owning a multifamily residential establishment served by more than one meter shall be considered a separate customer for each meter for the purpose of determining the per-unit gross quantity. If a multifamily residential customer that has not established

an umbrella account maintains a water distribution system in which a unit is served by more than one meter, such unit shall be prorated between or among such meters for the purpose of determining the per-unit gross quantity in accordance with the following formula:

$$\text{Per unit gross quantity per meter} = \frac{W}{U}$$

Where:

W = is the total water delivered through such meter during a bill period.

U = is the sum of the units served by the meter, except where a unit is served by x meters such unit shall be counted only as 1/x unit.

In no event shall the sum of units used for the calculation of the "per-unit gross quantities" exceed the actual number of units located at the multifamily residential establishment.

Resale customer means any customer (other than a contract treated water customer, an EBS customer or a transient meter customer) owning or operating for compensation equipment or facilities for transmitting, storing, distributing, selling or furnishing potable water to the public or for resale to the public for any use; provided that the term shall not include any customer that furnishes water only to itself, its employees or tenants as an incident of such employee service or tenants when such water is not resold to or used by others.

Residential establishment means any structure or group of structures within which more than 50 percent of the floor space is occupied or intended for occupancy as living quarters. Residential establishment does not include hotels, motels, inns, lodging houses or any similar establishment in which lodging is furnished for consideration and in which less than 75 percent of the accommodations are occupied by permanent residents. Residential establishment does not include group quarters. Group quarters are living arrangement for other than ordinary household life, such as dormitories, military barracks, hospitals, homes for the aged, and prisons.

Single-family residential customer means a customer (other than a resale customer, a transient meter customer, a contract treated water customer or an EBS customer) whose meter is connected to, or serves exclusively, a residential establishment with one unit.

Transient meter customer means a customer that has obtained a transient meter from the department in accordance with procedures adopted by the utility official. Transient meters shall be used for metering water to construction projects only.

Umbrella account means a customer account established under section 47-71.

Unit means a house, an apartment, a town house, a manufactured home, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with any other persons in the structure and which quarters have either:

- a. Direct access from the outside of the structure or through a common hall:
or
- b. Complete kitchen facilities for the exclusive use of the occupants.

The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or nonrelated persons who share living arrangements.

(c) *Minimum monthly charge, minimum quantities:*

- (1) The minimum monthly charge shall be as shown in section 47-1001 of this Code.
- (2) Except for commercial fire line service, as provided below, the minimum quantities for commercial, resale, light commercial, and outdoor customers shall be as follows:

<i>Customer Meter Size (inches)</i>	<i>Minimum Quantity (gal / mo)</i>
5/8, 3/4	3,000
1	3,000
1 1/2	10,000

<i>Customer Meter Size (inches)</i>	<i>Minimum Quantity (gal / mo)</i>
2	16,000
3	35,000
4	60,000
6	125,000
8 or larger	180,000

- (3) The minimum quantities for a commercial fire line service meter shall be as follows:

<i>Meter Size (inches)</i>	<i>Minimum Quantity (gal / mo)</i>
$\frac{5}{8}$, $\frac{1}{2}$	3,000
1	3,000
$1\frac{1}{2}$	10,000
2 or larger	16,000

For purposes of computing gross quantities, the minimum quantity for EBS customers and transient meter customers is zero gallons. The minimum quantity for multifamily residential customers with three-inch or smaller meters is 2,000 gallons.

(d) *Charges for additional quantities.* The charge for the additional quantity for certain customers in any given month shall be as follows:

(1) *Residential classifications.*

- a. For each single-family residential customer with a gross quantity greater than 6,000 gallons, but less than 12,000 gallons in a given month, the charge for any additional quantity shall be \$2.67 per 1,000 gallons.
- b. For each single-family residential customer with a gross quantity in excess of 12,000 gallons in a given month, the charge for any additional quantity shall be as follows:
 1. For the first increment of 12,000 gallons less the minimum quantity for that customer: \$2.67 per 1,000 gallons.
 2. For that part of the gross quantity in excess of 12,000 gallons: \$4.81 per 1,000 gallons.

- c. For each multi-family residential customer, the charge for any additional quantity shall be \$2.35 per 1,000 gallons.

- (2) *Resale classification.* For each resale customer, the charge for any additional quantity shall be \$3.18 per 1,000 gallons.
- (3) *Outdoor classification.* For each outdoor customer, the charge for any additional quantity shall be \$4.81 per 1,000 gallons.
- (4) *Commercial classification.* For each commercial customer, the charge for any additional quantity shall be \$2.67 per 1,000 gallons.
- (5) *Light commercial classification.* For each light commercial customer, the charge for any additional quantity shall be \$2.67 per 1,000 gallons.
- (6) *Emergency backup service.* For each EBS customer, the charge for any additional quantity (which for EBS customers equals the gross quantity) shall be \$4.34 per 1,000 gallons.
- (7) *Contract treated water service.* See subsection (f) below.
- (8) *Transient meter classification.* For each transient meter customer, the charge for any additional quantity (which for transient meter customers equal the gross quantity) shall be \$2.67 per 1,000 gallons.

(e) *Emergency backup service:*

- (1) *Eligibility and applications.* Any person desiring to become an EBS customer must apply to the director. Each EBS application must:
 - a. Be made in a form prescribed by the director; and
 - b. Include engineering drawings and detailed specifications of the applicant's proposed installation of EBS equipment.

(2) *Action upon applications.* The director shall examine each EBS application. An application shall be approved if the director determines that:

- a. The applicant can qualify as an EBS customer;
- b. The requested EBS service is practical and sound from an engineering point of view;
- c. The proposed installation of EBS equipment meets city standards; and
- d. The application otherwise complies with this Code.

The director shall allow an applicant to modify its application or its proposed installation of EBS equipment so as to meet any requirements for approval.

(3) *EBS equipment:*

- a. All installations of EBS equipment shall include measuring equipment, valves, backflow prevention devices, a locking mechanism, a proper vault and such other items as are necessary in the judgment of the director. All such installations shall conform to city standards as to location, materials and workmanship.
- b. When the director has approved an application, the applicant shall furnish, deliver and install the EBS equipment at its own expense in strict compliance with this Code and the plans and specifications approved by the director. The applicant shall provide reasonable opportunities for the director to inspect the work as it progresses and shall so notify the director at appropriate times. When the completed installation has been inspected and approved by the director, the applicant shall:
 1. Convey the complete installation, free and clear of any liens and encumbrances, to the city by appropriate documents approved by the director; and

2. Deliver all keys to the locking mechanism to the director.

To the extent an existing, city-owned installation is to be used for the applicant's EBS installation, the foregoing provisions may be modified by the director.

(4) *Rates and charges.* Rates and charges for each EBS customer begin to accrue on the day its installation is conveyed to the city.

(5) *Opening and closing connections.* In the event of an emergency, the EBS customer may notify the director of the emergency and request that the EBS connection be unlocked and opened. If the director determines that an emergency exists, the city shall unlock and open the EBS connection. Under no circumstances shall the EBS customer unlock or open the connection or otherwise operate or tamper with the installation. When the emergency has ceased or is deemed to have ceased, the city shall close and lock the EBS connection. The emergency shall be deemed to have ceased when the EBS customer so notifies the director or when 30 days have elapsed after the date of EBS customer notified the director of the emergency, whichever first occurs. If the director determines that an extension of time will not cause undue hardship to the other customers of the city, the director may extend the time the EBS connection is open upon written request of the EBS customer and a showing by that customer that an emergency still exists and that all practicable steps are being taken to correct the circumstances causing the emergency. However, if at any time the director determines that an emergency has actually ceased and consults with the EBS customer, the director may close and lock the connection.

(6) *Termination of service.* Service to an EBS customer shall be terminated, after reasonable notice to the customer and an opportunity to be heard, if the customer fails to pay any rates or charges within

the time allowed or if the customer fails to comply with the other terms of service applicable to such customer. Upon such termination, the connection shall be permanently closed, locked and disconnected, and the rates and charges shall cease accruing.

(f) *Contract treated water service:*

(1) *Eligibility and applications.* Any customer or potential customer is eligible for contract treated water service under this subsection if either:

- a. Such customer is a municipality or conservation and reclamation district organized under article XVI, section 59 of the Texas Constitution which proposes to resell water purchased from the city to its customers; or
- b. A customer that would otherwise be a commercial customer having a minimum water consumption equal to at least 150,000,000 gallons per month.

Applications for contract treated water services shall be made on forms prescribed by the director. Each application shall be accompanied by a nonrefundable processing fee equal to \$50.00.

(2) *Contract requirements.* Upon receipt of a completed application, the director shall secure a written agreement from the applicant, which shall include:

- a. The term of the agreement;
- b. The minimum monthly quantity of water to be taken by the customer. This minimum for customers other than municipalities or conservation and reclamation districts shall be at least 150,000,000 gallons per month.
Any customer shall be permitted to redesignate the minimum monthly quantity no more than once every 12 months;
- c. The designation of the point or points of delivery;

- d. Rates and charges based on subsection (f);
- e. Any special requirements regarding metering or facilities desired by the parties.

No agreement for contract treated water service shall be valid unless approved by the city council.

(3) *Rates and charges.*

- a. For contract treated water customers receiving treated surface water only, the monthly charge shall equal:

$$P \times \$1.436$$

plus

$$(P-M) \times \$0.557$$

Where:

P is the total water delivery to such customer during the month expressed in units of one thousand gallons, except if the minimum monthly amount of water specified in the customer's contract is greater than *P*, *P* shall equal *M*; and

M is the minimum monthly amount of water specified in the customer's contract expressed in units of 1,000 gallons.

- b. For contract treated water customers that do not receive only surface water from the city, the monthly charge shall equal:

$$P \times \$1.436$$

plus

$$(P-M) \times \$0.557$$

Where:

P is the total water delivery to such customer during the month expressed in units of 1,000 gallons, except if the minimum monthly amount of water specified

in the customer's contract is greater than P , P shall equal M ; and

M is the minimum monthly amount of water specified in the customer's contract expressed in units of 1,000 gallons.

In the event a billing period is longer or shorter than 30 days, a daily charge shall be determined using the formula specified above, with P defined as average daily amount of water delivered during the billing period and M defined as the monthly minimum divided by 30. Such daily charge shall then be multiplied by the number of days in the billing period.

(Code 1968, § 49-52; Ord. No. 69-291, § 1, 2-17-69; Ord. No. 71-598, § 1, 3-24-71; Ord. No. 72-622, § 1, 4-18-72; Ord. No. 74-220, § 1, 2-6-74; Ord. No. 75-22, § 1, 1-7-75; Ord. No. 76-1847, § 1, 10-20-76; Ord. No. 77-154, § 1, 1-25-77; Ord. No. 78-631, § 3, 3-29-78; Ord. No. 79-2336, § 1, 12-26-79; Ord. No. 83-19, § 5, 1-11-83; Ord. No. 86-1663, §§ 1—3, 9-17-86; Ord. No. 87-1326, §§ 1—3, 8-5-87; Ord. No. 88-1194, §§ 1, 2, 7-6-88; Ord. No. 89-1048, § 2, 7-5-89; Ord. No. 90-15, §§ 1—3, 1-10-90; Ord. No. 90-635, § 153, 5-23-90; Ord. No. 90-861, §§ 1—9, 7-11-90; Ord. No. 92-113, §§ 1, 2, 2-5-92; Ord. No. 93-314, §§ 1—4, 3-24-93; Ord. No. 94-1268, § 4, 11-22-94; Ord. No. 02-926, §§ 4, 5, 10-2-02; Ord. No. 03-332, §§ 3, 4, 4-2-03; Ord. No. 04-297, §§ 2, 3, 4-21-04; Ord. No. 04-299, § 5.2, 4-21-04)

Editor's note—Ordinance No. 2004-299, passed April 14, 2004 requires the annual adjustment of water and sewer rates effective on the first of April. The adjustment is based on the change in the U.S. Consumer Price Index for all Urban Consumers for the Houston-Galveston-Brazoria Texas Metropolitan Area. The rates were adjusted April 1, 2005, and April 1, 2006.

Sec. 47-62. Reserved.

Editor's note—Former § 47-62, which pertained to water service charges for premises outside the city limits, was repealed by § 4 of Ord. No. 87-1326, enacted Aug. 5, 1987. The repealed provisions derived from § 49-53 of the 1968 Code, as amended by the following:

Ord. No.	Date	Section
71-598	3-24-71	1
72-662	4-18-72	2
74-220	2- 6-74	2, 3

75-22	1- 7-75	2
76-1847	10-20-76	2
77-154	1-25-77	2
78-631	3-29-78	4
79-2336	12-26-79	1
83-19	1-11-83	6
84-933	6-13-84	1
85-1191	7-17-85	1
86-1663	9-17-86	4
87-538	4-21-87	3

Sec. 47-63. Minimum monthly charges generally.

(a) Wherever meters are connected to the city's water distribution system, the minimum monthly charges called for in section 47-61 of this Code shall apply (except as otherwise specifically provided in this chapter), regardless of whether or not any water is actually used or consumed and regardless of whether or not the premises to which connection is made have water service from another source. Where more than one meter is used to serve the premises, the total charge for water service shall be computed as if each were connected to separate premises, except a multifamily residential customer that has established an umbrella account shall pay the minimum monthly charge based on the size of its largest meter only.

(b) The minimum charges called for in section 47-61 of this Code shall be in addition to and not credited against the charges made for installation of the meter and making connections as provided elsewhere in this Code.

(Code 1968, § 49-54; Ord. No. 76-1847, § 3, 10-20-76; Ord. No. 79-2336, § 1, 12-26-79; Ord. No. 93-314, § 7, 3-24-93)

Sec. 47-64. Minimum charges for unmetered connection for fire sprinkling systems.

(a) Each person with an unmetered connection serving a fire sprinkler system under the provisions of subsection (b) of section 47-4 of this Code shall pay the following monthly service charge for the corresponding size of the diameter of each unmetered sprinkler service line connected to the city's water main. The charge for fire line with a city approved backflow prevention device with a bypass meter will be the same as for unmetered fire

lines:

<i>Service Line Diameter (inches)</i>	<i>Monthly Service Charge</i>
$\frac{5}{8}$, $\frac{3}{4}$	\$10.72
1	10.72
$1\frac{1}{2}$	42.64
2	62.89
3	62.89
4	62.89
6	70.04
8 or larger	77.20

(b) Billing for charges made under this section shall be made on a monthly basis. Payment shall be due and made in accordance with the provisions of this Code, and payment of such charges shall be enforced by any and all means available to the city under other provisions of this Code, including termination of service.

(Code 1968, § 49-55; Ord. No. 83-19, § 7, 1-11-83; Ord. No. 86-1663, § 5, 9-17-86; Ord. No. 88-1194, § 3, 7-6-88; Ord. No. 89-1048, § 3, 7-5-89; Ord. No. 90-861, § 10, 7-11-90; Ord. No. 92-113, § 3, 2-5-92; Ord. No. 02-926, § 6, 10-2-02; Ord. No. 03-332, § 5, 4-2-03; Ord. No. 04-299, § 5.2, 4-21-04)

Editor's note—Ordinance No. 2004-299, passed April 14, 2004 requires the annual adjustment of water and sewer rates effective on the first of April. The adjustment is based on the change in the U.S. Consumer Price Index for all Urban Consumers for the Houston-Galveston-Brazoria Texas Metropolitan Area. The rates were adjusted April 1, 2005, and April 1, 2006.

Sec. 47-65. All water passing through meter to be charged for.

Subject to the provisions of this division, all water that passes through the meter shall be charged for, whether used or not.

(Code 1968, § 49-56)

Sec. 47-66. Charge when meter out of order.

If a water meter becomes out-of-order, is damaged or fails to register accurately, the customer shall be charged at the average daily consumption as measured by the meter when in order.

(Code 1968, § 49-57; Ord. No. 87-1326, § 10, 8-5-87)

Sec. 47-67. Charge for change of customer at same address.

Each time that a request for change of customer, for water service to an address or property is made, a fee of \$5.00 shall be charged, and shall be added to the first bill sent to the new customer for water service.

(Code 1968, § 49-58; Ord. No. 83-19, § 8, 1-11-83)

Sec. 47-68. Deposit to assure payment.

(a) Every person requesting water service from the city shall furnish the information required by the utility official, including information necessary to investigate the credit stability of the applicant. Except for single-family residential customers, the utility official may require that an applicant provide the city:

- (1) The name and address of the owner of the service address; and
- (2) The full legal description of the service address.

(b) The utility official shall make an investigation of the applicant's credit stability, and, based upon the results of such investigation, shall determine whether or not the applicant must place a deposit with the city to guarantee the payment of charges made for services furnished. The type of investigation to be made, the sources of information, and the minimum requirements for service without a deposit shall be determined by the utility official; provided, however, his determination shall be based on factual information obtained from reliable sources and the amount of the deposit to be required in those instances where one is required shall be determined from the applicant's credit stability, the type of service requested, the use of the property to be served, and the experience of the department with similar customers. The director of public works and engineering is hereby authorized to subscribe to the services of a reputable credit reporting bureau on an annual basis.

(c) If a deposit is required, water service will not be commenced until the applicant has made the required deposit with the city.

(d) Each time a termination of service is made to a customer for failure to make timely payment of charges for water or sanitary sewer service, a recheck of the customer's credit stability will be made and a deposit will be required before water service is restored, if the utility official determines that it is necessary in order to protect the interests of the city.

(e) Deposits will be retained by the city until a satisfactory credit rating has been established by the customer making the deposit, or termination of services requested, or application for services to the same property or address is made by a new applicant.

(f) After a customer's water service has been discontinued at his request, and all water charges and fees have been fully satisfied, if he has a deposit with the department, he shall be entitled to have refunded to him the deposit or the remaining portion thereof after all charges due the city by the customer have been deducted from such deposit.

(Code 1968, § 49-59; Ord. No. 89-24, § 4, 1-4-89; Ord. No. 90-635, §§ 153, 160, 5-23-90; Ord. No. 93-514, § 119, 5-5-93)

Sec. 47-69. Potable water bills; charge for late payment.

(a) All potable water bills shall be payable in full based upon the rates and schedules provided in this division, on or before 17 days after the date of the mailing of the bill to the customer, unless the customer expresses an intent to challenge the correctness of the bill by way of an administrative hearing as described in section 47-70 and, if any bill is not paid in full on or before the day prior to the mailing by the city of the succeeding monthly water bill, there shall be added thereto ten percent of the amount thereof as a charge for late payment. Provided, that any bill attempted to be paid by a check or money order drawn on or issued by a financial institution which has had its funds frozen by involuntary or voluntary action after the attempt to pay the bill in such manner shall not be charged the ten percent if the bill is paid within 17 days from the date the customer

has been notified that payment on the check or money order has not been honored. The director shall prescribe the form for customer's bills.

(b) Notwithstanding the provisions of subsection (a), late charges shall not apply to governmental customers (unless otherwise provided by contract) or exempt senior customers.

(1) As used in this section, "governmental customer" means:

- a. The United States government;
- b. The State of Texas and its political subdivisions; and
- c. The City of Houston.

(2) As used in this section, exempt "senior customer" means a customer meeting the following criteria:

- a. The customer must be 62 years of age or over;
- b. The customer must be a residential customer actually occupying the entire premises for which exempt senior customer status is sought; and
- c. The customer must have on file with the city an application for exempt senior customer status which is in a form prescribed by the director, and which has been approved by the director. The application shall include a sworn statement that the customer is 62 years of age or over.

(Code 1968, § 49-60; Ord. No. 71-204, § 1, 1-27-71; Ord. No. 82-37, § 6, 1-12-82; Ord. No. 83-19, § 9, 1-11-83; Ord. No. 84-1279, § 1, 8-14-84; Ord. No. 87-1326, § 11, 8-5-87; Ord. No. 89-51, § 1, 1-11-89)

Sec. 47-70. Termination of service for failure to pay.

(a) If any customer shall refuse or neglect to pay charges for water service furnished by the city when due, such customer shall be sent written notice by certified mail, by hand delivery to the premises where such service is provided, or by any other means reasonably calculated to notify such customer. Such notice shall describe the procedures prescribed herein by which the correctness of a bill may be challenged. (In the case

of single-family residential customers, such notice shall also inform the customer of the W.A.T.E.R. Fund established pursuant to Chapter 36 of this Code, and shall describe the procedures established by the director of the health and human services department for making application for assistance thereunder; provided, however, that an application for aid from the W.A.T.E.R. Fund shall not delay or otherwise affect the responsibilities of the customer or the city under this chapter.) The customer shall be allowed ten days from the receipt of such written notice in which to express his intent to challenge the correctness of said bill by way of an informal administrative hearing. If such an intent is expressed by way of a telephone call or written response, a hearing shall be arranged as soon as practical following notice to the city of such intent. Said hearing shall be set at a reasonable time and place and shall be held before a designated department official with the power to correct or adjust mistaken bills (each such official being designated by the director). Said customer (who may be represented by counsel or any other agent) shall be allowed to present such information at the hearing as is necessary to establish his complaint. Said customer may ask questions of any person offering information at such hearing and may examine any documents or records presented. After considering all information, documents and records presented, both by the customer and the city, the designated department official shall render a decision within five days of said hearing. If the official finds such bill is incorrect in whole or in part, he shall correct or adjust such bill as is necessary, including removal of any charges for late payment. If, however, the bill is found to be correct, the water shall be immediately turned off and not turned on again, except by authorized representatives of the department.

(b) No customer refund pursuant to subsection 47-70(a) above, in excess of the city council approval requirement limitation amount established pursuant to article II, section 19a of the city charter (inclusive of any related sewer charge refund pursuant to this chapter) shall be made except with the prior approval of the city council.

(c) If a customer does not choose to challenge a charge for water service, then, at the end of the ten-day period following notice to the customer,

the water shall be immediately turned off and not turned on again, except by authorized representatives of the department.

(d) When the water supply to any property or premises of a customer has been disconnected or otherwise terminated by the department for failure of the customer to pay any water charges due and owing to the city, the water service to that customer at the affected property or premises shall not be resumed until and after all delinquent charges have been fully paid and satisfied, or satisfactory arrangements have been made with the director to pay such delinquent bills, and the delinquent customer has made any required deposit with the department. Whenever an umbrella account established under section 47-71 of this Code is delinquent, water service to each meter under that account may be terminated by the department in accordance with this subsection.

(e) In cases where the water has been turned off for nonpayment of charges for water or sanitary sewer services, and the customer has complied with the requirements of the city and is entitled to have the water turned on again, if the request for turning on the water is made by the customer between the hours of 8:00 a.m. and 5:00 p.m. of any weekday from Monday through Friday (except holidays authorized by city council for city employees), the charge for turning on the meter will be \$10.00. If the request for turning on the meter is made by the customer and the request is complied with by the city at any time other than that stated above, the charge for turning on the meter will be \$12.50.

(f) If the meter has been turned off for nonpayment of charges for water services, and it is turned on again by anyone other than authorized personnel of the department, the meter shall be turned off again and an additional service fee of \$10.00 will be assessed for each unauthorized turn-on, or when, in the opinion of the director, the turning off of the water at the curb stop or removal of the meter or the locking of the curb stop is not sufficient protection for the city against the unauthorized use of water, the director may cause the water to be turned off at the corporation stop or the service line to be cut and plugged, and

upon a reapplication for water service, the cost of reconnecting the service provided for in subsection (e) will be charged to the customer, plus an additional service fee of \$50.00.

(g) The foregoing procedures shall also apply to sewer service charges. An informal administrative hearing as to the correctness of a charge for sewer service may be combined with a similar hearing on water charges for the same customer*. (Code 1968, § 49-61; Ord. No. 83-19, § 10, 1-11-83; Ord. No. 84-1919, § 2, 12-18-84; Ord. No. 86-435, § 3, 4-1-86; Ord. No. 89-1493, §§ 1, 2, 10-18-89; Ord. No. 93-314, § 6, 3-24-93; Ord. No. 00-791, § 1, 9-6-00; Ord. No. 03-925, § 4, 10-8-03; Ord. No. 03-1196, § 2, 12-23-03; Ord. No. 04-460, § 3, 5-12-04)

*On October 8, 2003, City Council adopted Ordinance 2003-925, establishing drainage utility service charges for property in the City. The City received a referendum petition under Article VII-b of the Charter regarding Ordinance 2003-925. On December 23, 2003, rather than calling an election, City Council adopted Ordinance No. 2003-1196, which completely repealed Ordinance No. 2003-925.

Sec. 47-70.1. Acceptance and disposition of donations to W.A.T.E.R. Fund*.

(a) The director is authorized to accept donations to the W.A.T.E.R. Fund, as established by section 36-61 of this Code, when made in the

manner set forth herein. The director shall place such funds in the city's trust and agency account in trust for the W.A.T.E.R. Fund.

The director shall include the following statement on all water and sanitary sewer bills:

"Check if \$1.00 added as gift to W.A.T.E.R. ☐"

Whenever a customer's water or sanitary sewer payment shall exceed the amount then due by the exact sum of \$1.00 and such customer has checked the box provided on the bill for contributions to the W.A.T.E.R. Fund, the director shall deem the excess a contribution in the amount of \$1.00 to the W.A.T.E.R. Fund.

(b) Upon the written approval of the utility official, the department shall apply W.A.T.E.R. funds as a credit to a customer's water and sanitary sewer bill in the same proportion which the water and sanitary sewer charges bear to the customer's total bill. Such donated and transferred W.A.T.E.R. funds shall be under the general direction and control of the utility official for all purposes and shall under no circumstances be commingled with water, sanitary sewer or other public funds.

(Ord. No. 84-1919, § 3, 12-18-84; Ord. No. 86-435, § 2, 4-1-86; Ord. No. 92-23, § 5, 1-15-92; Ord. No. 03-925, § 5, 10-8-03; Ord. No. 03-1196, § 2, 12-23-03)

*On October 8, 2003, City Council adopted Ordinance 2003-925, establishing drainage utility service charges for property in the City. The City received a referendum petition under Article VII-b of the Charter regarding Ordinance 2003-925. On December 23, 2003, rather than calling an election, City Council adopted Ordinance No. 2003-1196, which completely repealed Ordinance No. 2003-925.

Sec. 47-71. Meter reading not to be combined for billing purposes; exception for umbrella account.

(a) As used in this section, the following terms shall have the meanings set out below, unless the context clearly indicates another meaning is intended:

Contiguous: An establishment is contiguous if all included buildings lie on a continuous

tract of land, except for division by a street, alley, sidewalk, right-of-way, natural or man-made waterway, or preserved green area.

Umbrella account shall mean a multifamily residential customer account established pursuant to this section.

(b) Except as provided in this section for umbrella accounts, the meter readings of two or more water meters, even though serving a single building or establishment, shall not be combined for billing purposes, but separate billing shall be made for the water metered through each individual meter based on the sliding scale of charges provided by this division, with the charge computed the same as if there were only one meter serving such customer building or establishment.

(c) A multifamily residential customer whose establishment is served by more than one meter may elect to establish an umbrella account under which all meter readings from its establishment are combined for billing purposes. In order to be eligible to establish an umbrella account the following criteria must be met:

- (1) The establishment must be contiguous, and all included buildings must be under the same ownership; and
- (2) The owner of the establishment must complete the application for the umbrella account and agree to the conditions required by this article.

(d) The following types of meters may not be included in an umbrella account:

- (1) submeters maintained by the customer;
- (2) meters for which the city bills for water service only, such as outdoor customer meters;
- (3) meters that measure wastewater discharge only; and
- (4) meters that determine the usage for a single unit only of the establishment.

(e) The utility official shall promulgate the application form for establishment of the umbrella account. The application shall include information regarding the address or addresses of the multifamily residential establishment, the

nature of any factor that may determine whether the buildings or structures are contiguous, the name of the owner, the number of units in the establishment, the number of meters covered by the proposed account, and any other information deemed relevant by the utility official. The application must be signed by the owner or duly authorized agent thereof, and must be notarized.

(f) The utility official shall grant the owner an umbrella account if the utility official is satisfied that all criteria of this section are met, and the

owner or his agent has completed the application for an umbrella account. The umbrella account shall be effective for the next billing period after approval by the utility official.

(g) The following events will terminate the umbrella account:

- (1) a transfer of ownership of the establishment in whole or in part; or
- (2) an election in writing by the owner of the establishment to terminate the umbrella account. Any such election to terminate shall not be effective until the end of the billing period during which the owner's notice is received by the department. An umbrella account that is delinquent may not be terminated by owner election.

(h) The provisions of this section relating to the establishment of umbrella accounts shall be effective July 1, 1993.

(Code 1968, § 49-62; Ord. No. 93-314, § 7, 3-24-93)

Sec. 47-72. Scaling or reduction of bill generally.

Any scaling or reduction of a water bill as shown by a meter is unlawful and is prohibited, unless such reduction is made in accordance with specific provisions of this division. Any officer or employee of the city scaling or reducing any meter bill, except in accordance with such provisions, shall be personally responsible for the reduction in the bill, and shall be dismissed from the city's service therefor.

(Code 1968, § 49-63)

Sec. 47-73. Testing meters; adjustments to bills.

(a) In case any consumer of water questions the correctness of a city water meter, he may obtain a test thereof upon written request therefor to the department. The customer may additionally request that he be permitted to be present at the removal and testing of the meter in person or by agent.

(b) Upon the receipt of a written request therefor, the city shall cause the meter to be thoroughly and accurately tested. If the party complaining of the meter has requested that he be present for the

removal and testing of the meter, he shall be given reasonable notice of the time thereof and be afforded the opportunity to be present and participate therein.

(c) Should the test of the meter complained of show that the meter registers more than 100 percent of the water delivered, the bill of the party complaining of the meter since his last payment shall be corrected according to the result of the test, and the meter shall be replaced by a correct meter, accurately tested before it is placed in service. Should the test show that the meter registers less than 100 percent of the water delivered, the bill of the party complaining since his last payment shall be increased in accordance with the test, and the party applying for the test shall pay such bill as increased, and in such event the city shall replace such defective meter with a good one, which has been accurately tested before being placed in service.

(d) A correction of a water bill as the result of testing the meter, whether the bill be increased or diminished, shall never extend to any period before the last payment of the bill.

(e) In the event the meter has been tested by the department within the previous 12 months and such meter when retested at the request of the customer is accurate within two percent error, then the department shall charge the following fees for meter testing:

- (1) For meters less than three inches in size, a field test shall cost \$12.50, and a test performed outside of the customer's premises shall cost \$47.50.
- (2) For meters three inches or greater in size, the cost shall be \$100.00 plus the actual cost of the test. Prior to any such test the department shall make an estimate of the total cost and require the customer requesting the test to make a deposit in the amount of \$100.00. Upon completion of the test, the department will provide the customer a detailed cost statement.

(Code 1968, § 49-64; Ord. No. 87-1326, § 12, 8-5-87)

Sec. 47-74. Adjustment of bill as result of defect in customer's line.

(a) Any residential, commercial, multifamily or outdoor customer of the city may request a correction of any water bill submitted to him by the city for water usage because of a loss of water through an excusable defect in the customer's water line for a period not to exceed three consecutive months, by filing a sworn written application with the utility official and mailing or delivering the same to the department within six months of the repair of the excusable defect. Such application shall contain the following matters and such other information as the utility official may require:

- (1) The name of the applicant, the address or description of the property or premises furnished water, the bill which is sought to be corrected, the date of the bill and the period of water usage covered thereby.
- (2) A statement of the date on which the excusable defect in the applicant's water line was discovered and the date on which it was repaired; and a statement that water was lost through the city water meter serving such property and that such water was not used in any manner by anyone.
- (3) A written acknowledgment that the applicant makes the statements shown on the application and swears to their veracity for the purpose of inducing the city to grant a reduction in the amount of the water bill for which a correction is requested.
- (4) The application shall show whether or not there have been any additional water appliances placed in use on the applicant's premises during the period covered by such bill.
- (5) Documentation shall be submitted detailing the exact nature and date of repairs to the applicant's water line.
- (6) A statement that the applicant is personally familiar with all of the matters of facts stated in the application and sworn

to therein, that they are made on his personal knowledge and that they are each true and correct.

- (7) The customer shall execute a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code and shall state that the applicant certifies that the application contains no false statements.

As used in this section the term "excusable defect" shall mean a rupture or leakage of the customer's water lines as may be caused by freezing weather, settlement, corrosion, wear or accident. The term does not apply to defective or out-of-repair faucets.

(b) Applications under this section shall be made on forms prescribed by the director of public works and engineering.

(c) Upon receipt of a properly completed application, the utility official shall review such application, and if he approves the same as being in compliance with this section, the applicant's bill shall be corrected by applying to the amount of water consumption shown thereon in excess of the applicant's average water usage, a rate of charge equal to one-half of the normal rate of such water usage by a customer in the applicant's classification, which reduction in rate shall be accomplished in the following manner:

- (1) The applicant's average water usage for a prior like period of time shall be determined. If the applicant has not been a customer for a sufficient length of time to make such determination, then the average water usage for a like period of time for city water customers living within the applicant's vicinity will be used. This average water usage so determined will hereafter be referred to as "average usage."
- (2) From the total water consumption shown on the bill submitted for correction, the average usage will be deducted. The resulting figure will hereafter be referred to as "excess usage."

- (3) The excess usage will be considered consumption beyond the average usage, and one-half of the regular rate for consumption beyond the average usage (for customers in the applicants' rate classification) will be applied to the excess usage and this will determine the amount the applicant must pay for the excess usage.
 - (4) The regular rate for customers in the applicant's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the applicant must pay for water usage during the period covered by the corrected bill.
 - (5) Provided, however, for multifamily residential customers that have established umbrella accounts, "average usage" and "excessive usage" under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.
- (d) Any correction authorized in this section shall be accomplished, if the bill under consideration for adjustment has already been paid, by crediting the applicant's account with the amount thereof, to be applied against charges for water thereafter accruing. If an applicant, whose account has been so credited, discontinues water service before the amount of the credit shall have been absorbed by such subsequent charges, the remaining balance shall be refunded to the applicant in cash at the time of discontinuance, if all other sums due the city have been paid. If such bill has not already been paid, the correction shall be made by reducing the amount of such bill accordingly.
- (e) A determination by the utility official of the amount of a correction to be made in an applicant's water bill in accordance with the provisions of this section shall be final.
- (Code 1968, § 49-65; Ord. No. 83-19, § 11, 1-11-83; Ord. No. 87-1326, § 13, 8-5-87; Ord. No. 88-128, § 1, 1-27-88; Ord. No. 90-635, §§ 153, 161, 5-23-90; Ord. No. 93-314, § 8, 3-24-93; Ord. No. 93-514, § 120, 5-5-93; Ord. No. 97-497, §§ 1, 2, 5-7-97)

Sec. 47-75. Adjustment of unusually large bill.

(a) Any single-family residential customer who receives a water bill for any given month that is computed on the basis of a gross quantity greater than 200 percent of the average monthly gross quantity applicable to such customer, may request an adjustment of the bill in the manner provided in this section; provided, that for any given customer, only one such monthly bill out of any series of 12 consecutive monthly bills may be adjusted under this section. The 'average monthly gross quantity' applicable to a customer means the average gross quantity for water service to the same premises during the 12 months immediately preceding the month for which the adjustment is sought. In order to request such an adjustment, the customer shall file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and the customer shall state that the application contains no false statements. The application shall identify the bill and briefly state:

- (1) The reasons for the request for the adjustment;
- (2) A description of the additional water appliances or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
- (3) That there have been no plumbing repairs or necessity therefor during the month for which an adjustment is sought or that the nature of any plumbing defects was not such as would explain the additional usage; and
- (4) Such other information as the application may require.

(b) Upon receiving such application, the utility official shall make an investigation to determine if an error was made, which investigation shall include inspection of the customer's water meter for accuracy and review of the customer's billing record. If the initial investigation reveals a billing

or meter error, the utility official shall make an adjustment to correct the error. If the investigation does not reveal an error, the utility official may make such further investigation as the utility official deems advisable and shall give full consideration to the statements contained in the customer's application. If the utility official concludes that, in all reasonable probability, the customer was charged for more water than has the customer consumed during the month in question but is unable to actually account for such unusual quantity, the utility official shall recompute the bill using as the gross quantity 200 percent of the average monthly gross quantity applicable to the customer. A determination by the utility official made in accordance with the provisions of this section shall be final.

(c) In the event an adjustment is made under this section; it shall be accomplished, if the bill under consideration for adjustment has already been paid, by crediting the customer's account with the amount thereof, to be applied against charges for water thereafter accruing. If a customer whose account has been so credited discontinues water service before the amount of the credit has been absorbed by such subsequent charges, the remaining balance shall be refunded to the customer in cash at the time of discontinuance, if all other sums due the city have been paid. If such bill has not already been paid, the adjustment shall be made by reducing the amount of such bill accordingly.

(d) The provisions of this section shall be cumulative of the provisions of section 47-73 of this Code.

(Code 1968, § 49-66; Ord. No. 83-19, § 12, 1-11-83; Ord. No. 87-1326, § 14, 8-5-87; Ord. No. 88-128, § 2, 1-27-88; Ord. No. 90-635, § 153, 5-23-90; Ord. No. 93-314, § 9, 3-24-93; Ord. No. 97-497, §§ 3, 4, 5-7-97)

Sec. 47-76. Charge for collecting in the field.

If a city collection representative makes a field call on a customer and a water or sewer bill is paid to the representative, a collection charge of \$5.00 shall be added to the amount of such bill. (Code 1968, § 49-68; Ord. No. 83-19, § 20, 1-11-83)

Sec. 47-77. Charges for disinfection of potable water mains by city employees.

(a) This section shall be applicable on all construction contracts for potable water mains constructed or renewed under city specifications where the mains are disinfected (chlorinated) by employees of the department.

(b) The director shall prescribe policies, procedures, and rates to be paid by contractors for the disinfection of newly constructed or renewed water mains. Such policies, procedures, and rates will be made available to the contractor prior to the completion of the construction.

(c) The rates for disinfection shall be established yearly by the director and shall be subject to approval by the city council by motion duly adopted.

(Code 1968, § 49-69; Ord. No. 83-19, § 21, 1-11-83)

Sec. 47-78. Delinquent customers to provide certain information to utility official.

The utility official may require any delinquent customer to provide the city:

- (1) The name and address of the owner of the service address of such customer; and
- (2) The full legal description of the service address of such customer.

(Ord. No. 89-24, § 5, 1-4-89; Ord. No. 90-635, § 153, 5-23-90)

Sec. 47-79. Charge for billing information.

Any customer may request an itemized summary of the department's billing records in accordance with procedures and forms promulgated by the director of public works and engineering. Each such request shall include payment to the city of a copying fee determined as follows:

Ten dollars per request for the previous 12 months; plus

Ten dollars per request for each additional 12-month period or fraction

thereof for which billing information is requested.

(Ord. No. 87-1326, § 15, 8-5-87; Ord. No. 90-635, § 162, 5-23-90; Ord. No. 93-514, § 121, 5-5-93)

Secs. 47-80—47-83. Reserved.

DIVISION 2. UNTREATED WATER

Sec. 47-84. Statement of policy; untreated water rates where there is no contract.

(a) This division applies to all sales of untreated water by the city.

(b) The policy of the city is that the provisions of this division, shall be deemed a part of every city contract for sale of untreated water for industrial, municipal use, or agricultural use.

(c) It is the city's policy that no guarantees or warranties of any sort shall be made with respect to continued service, water quality, prices, quantity, pressure or any other matter relating to the furnishing of untreated water, unless such guarantee or warranty is contained in a written contract approved by city council.

(d) When no contract is in effect, there are no warranties or guarantees of any sort, nor shall there be any minimum monthly quantity, and any water taken by any such customer in the absence of a water supply contract shall be paid for at the following rates per month:

- (1) First 10,000,000 gallons, \$1.03188 per 1,000 gallons.
- (2) Next 10,000,000 gallons, \$0.92705 per 1,000 gallons.
- (3) Next 30,000,000 gallons, \$0.87454 per 1,000 gallons.
- (4) Next 100,000,000 gallons, \$0.82210 per 1,000 gallons.
- (5) Amount in excess of 150,000,000 gallons, \$0.79591 per 1,000 gallons.

(Code 1968, § 49-72; Ord. No. 83-19, § 13, 1-11-83; Ord. No. 84-484, § 1, 3-27-84; Ord. No. 86-1663, § 6, 9-17-86; Ord. No. 87-1326, § 5, 8-5-87; Ord. No. 88-1194, § 4, 7-6-88; Ord. No. 89-1048, § 4,

7-5-89; Ord. No. 90-861, § 11, 7-11-90; Ord. No. 92-113, § 4, 2-5-92; Ord. No. 93-314, § 10, 3-24-93; Ord. No. 94-1012, § 1, 9-28-94; Ord. No. 04-297, § 4, 4-21-04; Ord. No. 04-299, § 5.2, 4-21-04)

Editor's note—Ordinance No. 2004-299, passed April 14, 2004 requires the annual adjustment of water and sewer rates effective on the first of April. The adjustment is based on the change in the U.S. Consumer Price Index for all Urban Consumers for the Houston-Galveston-Brazoria Texas Metropolitan Area. The rates were adjusted April 1, 2005, and April 1, 2006.

Sec. 47-85. Contract rates and terms of service.

Subject to variations as provided in section 47-86 of this Code, sales of untreated water under written contracts for industrial and municipal use shall be made in consideration of the requirement that the buyer agrees to purchase at least ninety percent of all its untreated water requirements from the city; however, the buyer shall not be required to purchase a minimum quantity during each month. Untreated water contracts shall include provisions limiting the city's obligation to deliver water to a stated contract quantity, and the buyer shall be required to pay a surcharge equal to five percent of the otherwise applicable cost for the portion of the water delivered to the buyer which exceeds the contract quantity whenever the amount actually delivered exceeds the contract quantity by ten percent or more. The rate for untreated water sold pursuant to this subsection is \$0.41232 per 1,000 gallons.

(Code 1968, § 49-73; Ord. No. 71-598, § 3, 3-24-71; Ord. No. 72-662, § 3, 4-18-72; Ord. No. 73-1753, §§ 1, 2, 8-29-73; Ord. No. 73-2471, § 1(1), (2), 12-19-73; Ord. No. 76-1847, § 4, 10-20-76; Ord. No. 78-631, § 5, 3-29-78; Ord. No. 79-2336, § 2, 12-26-79; Ord. No. 83-19, § 14, 1-11-83; Ord. No. 86-1663, § 7, 8-17-86; Ord. No. 87-1326, § 6, 8-5-87; Ord. No. 88-1194, § 5, 7-6-88; Ord. No. 89-1048, § 5, 7-5-89; Ord. No. 90-861, § 12, 7-11-90; Ord. No. 92-113, § 5, 2-5-92; Ord. No. 93-314, § 11, 3-24-93; Ord. No. 94-1012, § 2, 9-28-94; Ord. No. 96-764, § 1, 7-31-96; Ord. No. 04-297, § 5, 4-21-04; Ord. No. 04-299, § 5.2, 4-21-04)

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change in the U.S. Consumer Price Index for all Urban Consumers for the Houston-Galveston-Brazoria Texas Metropolitan Area. The rates were adjusted April 1, 2005, and April 1, 2006.

Sec. 47-86. Same—Variations.

(a) If a contract under this division provides for delivery of water by the city at some point away from the main San Jacinto River conveyance systems and the Trinity River conveyance systems of the city and the Coastal Industrial Water Authority, the rate of the otherwise applicable schedule will be increased by agreed amounts so as to allow for the additional cost of service factors, including amortization of the cost of additional facilities and interest.

(b) A customer taking untreated water under this division will be relieved from its obligation to take, or pay for, its minimum quantity of water for a single annual period of time, not to exceed 14 days in any calendar year, if such customer's plant or facility substantially ceases operations during such period and if the conditions of this subsection (b) are met. The customer must apply to the utility official at least 30 days prior to the beginning of the cessation of operations. The application, on a form provided by the city, shall be made under oath by the customer, or its duly authorized agent, and shall contain the following:

- (1) The beginning and ending dates of the cessation of operations and a request that minimum payments be suspended between such dates;
- (2) The dates of the last preceding cessation of operations and suspension period, if any;
- (3) The reason that such cessation of operations is necessary;
- (4) A statement that the cessation of operations cannot reasonably be avoided. If the reason for cessation is maintenance of the customer's plant or facility, the application must state that such maintenance cannot practicably be performed without a cessation of operations.

Upon approval of the application by the utility official, the customer's monthly bill or statement

shall be adjusted prorata so as to relieve the customer of that portion of its minimum monthly payment corresponding to the cessation period. The provisions of this subsection shall not apply to any circumstances defined as force majeure in any water supply contract or to any other suspension of payments provided for in such contracts. (Code 1968, § 49-74; Ord. No. 73-2471, § 2, 12-19-73; Ord. No. 77-182, § 1, 2-1-77; Ord. No. 90-635, § 153, 5-23-90)

Sec. 47-87. Bills; penalty for late payment.

The water division will read the meter of each customer of untreated water for industrial and municipal uses on the first day of each calendar month and will render to each customer, on or before the tenth day of each month, a statement showing the quantity of water delivered, the payment which is due for water during the preceding month, and the time when payment is due. The statement will be mailed to such address as customers, from time to time, furnish the water division. If a customer fails to pay any amount when due, interest thereof shall accrue at the rate of ten percent per annum from the date when due until paid. The statements will refer to the penalty for late payment. (Code 1968, § 49-75)

Sec. 47-88. Provisions of long-term contracts.

Long-term contracts authorized pursuant to the provisions of section 402.021 of the Texas Local Government Code may contain special provisions not inconsistent with the provisions of this division regarding options for additional water, stand-by charges, and other provisions in consideration for contractual commitments from customers to purchase their surface water requirements from the city over long periods of time. (Code 1968, § 49-76; Ord. No. 77-183, § 1, 2-1-77; Ord. No. 94-1012, § 3, 9-28-94)

Sec. 47-89. Rates and terms for sale of untreated water for irrigation use.

(a) The rates for untreated water sold for irrigation purposes pursuant to written contracts shall be as follows:

- (1) If such water is not pumped from the canal or conveyance system: \$52.41 per

acre to be watered initially plus \$9.55 per acre to be watered for each additional watering during the annual term of the contract, or

- (2) If such water is pumped from the canal or conveyance system:

- a. *For the initial watering:* The greater of \$52.41 per acre to be watered or \$52.41 per million gallons actually used; and
- b. *For each additional watering during the annual term of the contract:* The greater of \$9.55 per acre to be watered or \$9.55 per million gallons actually used.

(b) All persons desiring to purchase untreated water for irrigation purposes shall apply to the director for such purchases.

- (1) Each application must:

- a. Be in a form specified by the director;
- b. Be filed with the director on or before April 1 of a year for a purchase during that year (the director may extend the deadline at his discretion);
- c. Contain the complete legal name of the person applying for purchase of untreated water for irrigation purposes (the "applicant") and the applicant's business address and telephone number;
- d. Contain a description of the land to be irrigated, such that the land may be located with ease and certainty;
- e. Contain the number of acres to be irrigated to the nearest tenth of an acre;
- f. State whether the applicant will use gravity or a pump to convey untreated water to the land described in the application, and if a pump is used, state the make, model, age, size, condition and location of all pumps and self-reading (or self-recording) meters;

- g. Contain an agreement by the applicant to be bound and abide by the provisions set out in this section; and

- h. Be signed by the applicant, or by a person authorized to bind the applicant to contracts and agreements.

- (2) The director shall examine each application for purchase of untreated water for irrigation purposes. An application shall be approved if the director determines that:

- a. The city reasonably anticipates a surplus of untreated water after filling the needs of its domestic, commercial and industrial customers such that it may serve irrigation customers;
- b. The applicant's pumps, meters and other facilities are satisfactory.
- c. The applicant is not in arrears for water previously taken for irrigation purposes; and
- d. The application complies with this Code.

(c) The following provisions shall apply to all sales of untreated water sold for irrigation purposes:

- (1) Water shall be taken only from a point approved by the director;
- (2) Water may be taken only when the director determines that a surplus of water remains after the needs of domestic, commercial and industrial customers are fully met;
- (3) If water is to be taken through a self-reading or self-recording meter, the applicant shall have the obligation to install and maintain the meter at the applicant's own expense, and shall have the meter tested for accuracy whenever requested by the director. If any test results indicate that the meter is inaccurately measuring the water by two percent or more, the applicant shall recalibrate the meter or replace it;

- (4) The applicant shall have full responsibility with respect to any damages to persons or property caused by the water after it leaves the canal, and shall indemnify the city for any such damages;
- (5) The city shall not be liable for any damages caused by failure to furnish water to the applicant for any reason;
- (6) The applicant shall construct all canals, levees, banks, ditches and other improvements reasonably deemed necessary by the director to receive water and to prevent the waste thereof;
- (7) The applicant shall not sell or otherwise make available to other parties any water delivered for irrigation purposes;
- (8) The city shall have a lien on crops produced on the irrigated land until all sums owing are paid in full, or until the director releases said lien in whole or part;
- (9) No warranties or representations are made by the city with respect to the quality of water sold, or its suitability for crop irrigation purposes, and it shall be the applicant's responsibility to determine whether the water is suitable for irrigation purposes.

(d) Payment for untreated water for irrigation purposes supplied during any year shall be made on or before November 1 of that year (for the first watering) and on or before December 1 of that year (for any subsequent watering) to the city water division at City Hall, or at such other place as the director may specify. Interest shall accrue on any unpaid balance at the rate of ten percent per annum until paid.

(Code 1968, § 49-77; Ord. No. 83-19, § 15, 1-11-83; Ord. No. 84-484, § 2, 3-27-84; Ord. No. 86-1663, § 8, 9-17-86; Ord. No. 87-1326, § 7, 8-5-87; Ord. No. 88-1194, § 6, 7-6-88; Ord. No. 89-1048, § 6, 7-5-89; Ord. No. 90-861, § 13, 7-11-90; Ord. No. 92-113, § 6, 2-5-92; Ord. No. 93-314, § 12, 3-24-93; Ord. No. 04-297, § 6, 4-21-04; Ord. No. 04-299, § 5.2, 4-21-04)

Editor's note—Ordinance No. 2004-299, passed April 14, 2004 requires the annual adjustment of water and sewer rates effective on the first of April. The adjustment is based on the change in the U.S. Consumer Price Index for all Urban

Consumers for the Houston-Galveston-Brazoria Texas Metropolitan Area. The rates were adjusted April 1, 2005, and April 1, 2006.

Sec. 47-90. Sale of groundwater pumping certificates.

The director is hereby authorized to sell city groundwater pumping certificates issued by the Harris-Galveston Coastal Subsidence District ("certificates"). Transfer of any such certificate may be made only upon tender of payment to the director.

Rates for certificates are as follows: participants in the city's southeast water treatment plant will be charged the current operations and maintenance rate for the southeast water treatment plant or the latest price charged for certificates by the Harris-Galveston Coastal Subsidence District, whichever rate is higher. All other buyers will be charged the base rate for contract treated water service for customers that receive surface water only from the city.

Certificates may be sold only if the director determines use of the certificates is not required by the city. Documents evidencing sale of certificates must be approved by the legal department as to form.

(Ord. No. 99-13, § 1, 1-13-99)

Secs. 47-91—47-100. Reserved.

DIVISION 3. WATER USED BY CITY

Sec. 47-101. Generally.

(a) Other departments or divisions of the city shall be deemed a customer of the water division with respect to each meter or connection which serves areas or structures which:

- (1) Are used primarily for or in connection with activities for which fees, charges or other nontax revenues are paid to the city; and
- (2) Are under the control of a department or division of the city which is shown as a revenue-supported, "enterprise" operation in the most recently published annual financial report of the city.

(b) The director shall bill each such department or division monthly, and each such department or division shall pay for water used by it upon receipt of the bill.

(Code 1968, § 49-82; Ord. No. 83-19, § 16, 1-11-83)

Sec. 47-102. Sale to state.

The sale of unmetered water to the state department of highways and public transportation for use in its street sweepers and herbicide trucks and other similar purposes is hereby authorized provided that the utility official requires that adequate reporting procedures by such department to the city are established in order to insure that water furnished by the city to such department is paid for.

(Code 1968, § 49-82.1; Ord. No. 73-2515, § 1, 12-26-73; Ord. No. 90-635, § 153, 5-23-90)

Secs. 47-103—47-120. Reserved.

ARTICLE III. CITY SEWER SERVICE CHARGES

Sec. 47-121. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *City sanitary sewer system.* The sanitary sewer and waste disposal system owned, maintained and operated by or on behalf of the city in order to furnish sanitary sewer and waste disposal services, including, but not limited to waste treatment facilities including fertilizer plants, plants, disposal fields, lagoons and areas devoted sanitary landfills for purposes of treating, neutralizing, stabilizing or disposing of waste, and sewer systems including pipelines, conduits, canals, pumping stations, force mains, and all other constructions, devices and appurtenant appliances used to transport waste, as such system may be now constituted or as it may be hereafter improved, enlarged or extended by construction, reconstruction, acquisition, annexation or otherwise.

- (b) *Commercial user.* Any business or establishment that is not an industrial user and is (i) identified in the 1987 Edition of the Standard Industrial Classification Manual, or (ii) is served by an intake meter one inch or greater.

- (c) *Duplex residence.* A single building equipped for occupancy as a permanent residence by two families.

- (d) *Industrial user.* Any business or establishment that discharges industrial waste as defined in Article V of this chapter.

- (e) *Light commercial user.* Any business or establishment with an intake meter of $\frac{3}{4}$ inch or less that is not a residential, commercial, or industrial user.

- (f) *Multiple-dwelling units.* One or more buildings, each equipped for occupancy by three or more families and used as a permanent residence by those families.

- (g) *Person.* Persons, individuals, firms, partnerships, companies, corporations, and governmental entities, whether one or more or a combination of one or more thereof.

- (h) *Residential user.* A single-family residence, or a duplex residence, or a multiple-dwelling residence, or any combination of same.

- (i) *Single-family residence.* A residential establishment serving a single family, or household, which may not include separate living quarters. In those instances where there is no meter on the water supply to the principal household, separate living quarters shall be considered as a separate residence and a separate sewer service charge shall be applied.

(Code 1968, § 49-94; Ord. No. 74-221, § 1, 2-6-74; Ord. No. 77-499, § 1, 3-15-77; Ord. No. 90-861, § 15, 7-11-90; Ord. No. 92-113, § 8, 2-5-92; Ord. No. 93-314, § 14, 3-24-93)

Sec. 47-122. Rates, for users taking city water.

- (a) *Residential users.* The monthly charge for sanitary sewer service for each residential user shall be computed on the basis of the quantity of